

REMARKS

Claims 1-10 are provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1-9 of copending Application No. 09/683,962 (published as US 2003/0063433 A1, and hereinafter referred to '962).

1. Rejection of claims 1-10:

In the above-indicated Office action, the Examiner asserts that, though not identical, the claims in the instant application are not patentably distinct from those of '962. The Examiner does not, however, provide any substantive arguments to back up this assertion.

For purposes of comparison, claim 1 of '962 is presented below, with relevant portions emphasized with bold type:

"1. ('962) An optical disk drive module installed in a flat panel display personal computer for lifting up and lowering a disk drive, the flat panel display personal computer comprising a flat panel display and a computing module coupled to a rear side of the flat panel display, the optical disk drive module comprising:

a chassis module moveably disposed at the rear side of the flat panel display and having a chassis body;

a drive carrier rotatably disposed in the chassis module;

a cover fixed outside the disk drive and slidably fastened within the drive carrier so as to dispose the disk drive in the drive carrier;

a switch positioned at a front cover of the flat panel display for generating a trigger signal when the switch

is depressed;
a control unit disposed in the computing module and coupled
to the switch for receiving the trigger signal and
generating a corresponding pulse; and
5 an **electromagnetic switch** moveably disposed on the chassis
body and coupled to the control unit;
wherein when fastening the electromagnetic switch onto the
cover, the drive carrier is enclosed in the chassis
module; when depressing the switch, the switch will
10 generate the trigger signal, the control unit will
receive the trigger signal and generate the pulse, **the
pulse will cause the electromagnetic switch to
separate from the cover**, and the drive carrier will
swing away from the chassis module to lower the disk
15 drive."

Claim 1 of the instant application is presented below, also
with relevant portions emphasized with bold type:

20 "1. (Instant application) An optical disk drive module
installed in a flat panel display personal computer for
lifting up and lowering a disk drive, the flat panel display
personal computer comprising a computing module and a flat
panel display coupled to the computing module and installed
25 on a rear side of the flat panel display, the optical disk
drive module comprising:
a chassis module moveably disposed at the rear side of the
flat panel display;
a drive carrier rotatably disposed in the chassis module
30 for positioning the disk drive;
a cover fixed outside the disk drive and slidably fastened
within the drive carrier so as to dispose the disk drive

in the drive carrier;
a button positioned at a front cover of the flat panel display;
an engaging switch disposed on the chassis module, the
5 engaging switch fastened to the cover so as to enclose the drive carrier in the chassis module;
wherein when depressing the button, the button will push the engaging switch to separate the engaging switch from the cover, and the drive carrier will swing away
10 from the chassis module to expose the disk drive below the flat panel display."

MPEP 804(II)(B)(1) states quite clearly that, "...any analysis employed in an obvious-type double patenting
15 rejection parallels the guidelines for analysis of a 35 U.S.C. 103 obvious determination." This section of MPEP 804 goes on to state that the obvious-type double patenting rejection should make clear (A) the differences between the inventions defined by the conflicting claims, and (B) the reasons why
20 a person of ordinary skill in the art would conclude that the instant invention defined by the claim is an obvious variation of the invention defined in the conflicting claim.

The Examiner has simply asserted that an obvious-type
25 double patenting situation exists with the statement, "Although the conflicting claims are not identical, they are not patentably distinct from each other because the optical disk drive module claimed by the current application is essentially similar to the module claimed by application
30 '962." The Applicant believes, however, that the two claims are patentably distinct, and wishes to show how.

First, it is noted that the '962 claim requires a switch for generating a trigger signal when the switch is depressed, which is not present in the instant claims. The '962 claim also requires a control unit disposed for receiving the trigger
 5 signal and generating a corresponding pulse, again not present in the instant claims. Finally, the '962 claim requires an electromagnetic switch moveably disposed on the chassis body and coupled to the control unit, and not present in the instant claims. On the other hand, the instant claims share an engaging
 10 switch disposed on the chassis module, which when taken in light of corresponding written description, is different from the "switch" of the '962 claims, though they share the same name. The purpose of these limitation variations are best expressed in their respective wherein clauses. In '962 we learn
 15 that, "...when depressing the switch, the switch will generate the trigger signal, the control unit will receive the trigger signal and generate the pulse, the pulse will cause the electromagnetic switch to separate from the cover..." On the other hand, in the instant claim 1 we learn that, "...when
 20 depressing the button, the button will push the engaging switch to separate the engaging switch from the cover..."

Consequently, '962 discloses an electro-mechanical system that causes the drive carrier to swing away from the chassis
 25 module, while the instant claims disclose a purely mechanical system to perform this function. The claimed inventions are thus clearly different from each other, and are not "essentially similar" as stated by the Examiner.

30 To sustain the double-patenting rejection, the Examiner must provide references and arguments making clear that the instant claims are obvious variations of the '962 claims. Six

references, including '962, where provided by the Examiner,
but without any explanation as to how or why they would lead
one of ordinary skill to conclude that the instant claims are
obvious variations of the '962 claims. Thus, in view of MPEP
5 804(II)(B)(1), it is unclear how the double-patenting
rejection can be sustained, as the Applicant has shown that
the allegedly conflicting claims are, in fact, distinct and
not at all "essentially similar".

10 In light of the above argument, reconsideration of claims
1-10 is politely requested.

Sincerely yours,

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